

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Amherst Housing Authority
(has an agreement to purchase property from owner)
33 Kellogg Avenue, Amherst, MA 01002

Owner of property: Dennison H. Jones and Paul C. Jones
15 Pray Street, Amherst, MA 01002

Date Application filed with the Town Clerk: August 4, 2005

Nature of request: Petitioner seeks a Special Permit, under Sections 3.322 and 3.323 of the Zoning Bylaw, to construct 11 apartments/townhouses.

Location of property: Main Street, (Map 14B, Parcel 249, R-VC Zone)

Legal notice: Published in the Daily Hampshire Gazette on August 24, 2005, and August 31, 2005, and sent to abutters on August 24, 2005.

Board members: Zina Tillona, Tom Simpson and Barbara Ford

Submissions: The applicants submitted the following documents which are on file in the Planning Department:

- USGS Location Map of the Site
- A Management Plan, dated July 27, 2005
- Detailed drawings of the proposed storage sheds
- A set of drawings dated August 3, 2005, prepared by The Berkshire Design Group and Dietz and Company Architects, showing proposed site and architectural work
- Two revised drawings (Overall Plan SP-1 dated August 23, 2005, and Grading and Utility Plan SP-3 dated September 15, 2005.)
- Sample Unit Lease

The Planning Board submitted a Memorandum dated August 19, 2005, commenting on the Board's review of the proposed project at its public meeting on August 17, 2005.

The Town staff submitted the following documents:

- The Planning Department submitted Memorandum Re: ZBA FY2006-00007, dated September 7, 2005, - *Revised*, commenting on its review of the application.
- The Town Engineer, Jason Skeels, submitted a letter, dated September 7, 2005, commenting on his review of the plans.
- Assistant Fire Chief, Michael Zlogar, submitted a Memorandum dated September 2, 2005, commenting on his review of the plans.

The Conservation Commission submitted Order of Conditions NOI05-0969, regarding work proposed to be done in the vicinity of the wetlands on the site.

Nancy Gregg of the Housing Partnership/Fair Housing Committee submitted a letter dated August 30, 2005, in support of the proposed project.

Vincent O'Connor submitted a letter dated September 8, 2005, in support of the proposed project and commenting on suggestions regarding accessibility and recreation.

Site Visit: September 6, 2005

The Board was met by Peter Wells of The Berkshire Design Group, Peter Jessop of the Housing Partnership/Fair Housing Committee, and Donna Crabtree, Executive Director of the Amherst Housing Authority (AHA). At the site visit the Board observed:

- The location of the property on a heavily-traveled road, in a neighborhood of historic older homes and multi-family houses, across the street from the Salem Place condominiums and adjacent to Watson Farms.
- The proposed location of the new buildings and associated parking.
- The location of the existing trees to be saved and the trees to be removed.
- The existing driveway that provides access to Watson Farms and will provide access to the new units.
- The edge of the densely vegetated wetlands located on the property.
- The proposed dumpster location.

Public Hearing: September 8, 2005.

In attendance, representing the applicant were Donna Crabtree, Executive Director of the Amherst Housing Authority, Peter Jessop and Steve Rogers, Commissioners of the Amherst Housing Authority, Peter Wells, Landscape Architect with The Berkshire Design Group and Mark Sternik, Architect with Dietz & Company Architects.

Peter Wells and Mark Sternik presented the petition. They displayed an aerial photograph of the site, showing the adjacent multi-family housing project known as Watson Farms, which has 15 affordable units. They made the following points:

- The project being proposed will be constructed on a 4.6 acre parcel of land.
- It will share a driveway with Watson Farms.
- The utility infrastructure is in place for the new development.
- There is a large isolated wetland on the site that is protected from development; there are three upland areas that can be developed.
- The original plan called for 13 new dwelling units to be built; the current plan shows 11 proposed dwelling units.
- There will be 2 parking spaces per dwelling unit.
- Seven of the units will be located in a building close to Main Street; this building will have units containing 1 and 2 bedrooms each, with three townhouses in the middle, flanked by two apartments (one over the other) at either end.
- Four of the units will be located in a building closer to Watson Farms; this building will have one fully-accessible unit, two 3-bedroom units and one 2-bedroom unit.
- The site plan has retained much of the existing tree canopy.
- There is an existing sidewalk connecting Main Street to Watson Farms located on the east side of the access drive.

- The new units will have sidewalks from each unit to the adjacent parking spaces. Tenants can use the existing sidewalk on the east side of the driveway to walk to Main Street.
- The project has received an Order of Conditions from the Conservation Commission.
- The design team has met with the Planning Board and has incorporated the Planning Board's comments into the plans.
- The design team has also met with the Historic Commission and received an endorsement from the Commission for the project.
- There will be no new subsurface drainage.
- The new paving will drain into the existing drainage system; the roofs will drain overland into the wetland.
- The planting on the site will include blueberry shrubs, which will provide habitat and food for wildlife and will deter people from walking into the wetlands. The Highbush Blueberry shrubs will be planted at the 30-foot wetland "no build" line. Behind them the lawn and wetland will be left "natural". The blueberries will be left to grow, not trimmed. They will be watered and mulched in the first two years, but after that, left alone.
- The design does not call for removal of the brambles in the wetlands.
- There will be no new light standards on the site. There is an existing light on a pole at Main Street and another further back into the site near Watson Farms. Each unit will have a small porch light. There is no need for additional site lighting, according to the designers.
- There will be sheds in the rear of the units for storage of large items such as bicycles and gardening equipment, since the units will not have garages.
- The sheds and the dumpster will be buffered by evergreen trees.
- Two new street trees (3 inch caliper Sugar Maples) will be planted along Main Street.
- Storage of plowed snow can be accommodated along the driveway and in small pockets throughout the site, outside of the wetlands.
- The dumpster will be placed at the corner of the driveway, halfway between the two new buildings, and it will be heavily screened by evergreens.
- The concerns of the Fire Department will be accommodated. There is an adequate turning radius (52 feet) for the fire truck, even with the dumpster located at the corner of the driveway. A fire hydrant will be added along with an appropriately sized water line to service the hydrant and the sprinkler systems.
- The buildings will adhere to the Zoning Bylaw with respect to side yard setbacks. The four-unit building will be moved away from the access drive and into the 50 foot wetland buffer zone. There is a hearing scheduled with the Conservation Commission for September 14, 2005, to review this change.
- The nine-foot tall sheds will be moved away from the property line in order to meet the setback requirements.
- The sheds will be 4 feet x 8 feet and 9 feet high at the roof peak.
- The architecture of the buildings will be compatible with the houses in the neighborhood. The gable end of the seven-unit building will face the street and will have entries with porches on that end for the apartments, so the building will look like other houses on the street.

- Each unit will have a front porch with some ornamentation.
- The drainage from Main Street does not enter the site.
- The Housing Authority will not use salt on the parking lots in winter.
- The trees along the property line on the west side will remain.

The Board discussed the issue of snow storage. Donna Crabtree noted that not all of the snow can be stored on site. Some of it will need to be removed.

The Board discussed the issue of lighting and whether there was enough for the new development. Bollard lights were mentioned but Mr. Wells stated that they are a target for vandalism. Mr. Sternik stated that the wash of lights from the street lights in addition to the porch lights at each unit will be enough to illuminate the site.

The Board discussed the trash system and whether barrels located closer to the units works better than a dumpster. Ms. Crabtree described the dumpster as being 7 feet x 6 feet with a front door. There will be a rubber or plastic top which will not make noise like the metal ones do. Each unit will have its own recycling bins which will be placed out on the sidewalk on pick-up day. Storage of trash barrels is a problem for property management. In Ms. Crabtree's opinion, a dumpster works better.

The Board discussed the distance that people will have to walk from their units to the dumpster.

The Board asked Ms. Crabtree for a sample of the lease that will be used. She stated that she would provide a copy of the lease for the Board.

The Board discussed the issue of using salt on the walks and roadways in the winter and whether there were alternatives.

Ms. Crabtree stated that the Housing Authority, which will manage the site, will clear the common sidewalks in winter but that the private sidewalks leading to the individual units will be cleared by the tenants.

The Board and the applicant discussed whether the backyard areas close to the units would be private or public and whether there should be small fences to mark off an area of semi-private space for each tenant.

The Board and the applicant discussed whether there would be a play area available for the tenants. Ms. Crabtree pointed out that the new units will be located near the East Street School yard, and that there is no room on this site for a play area. Mr. Wells added that the East Street School has a paved play yard plus a soccer field. The project is also not too far from Fort River Elementary School, which has ample area for play.

The Board discussed the issue of traffic. Ms. Crabtree noted that the 15 units at Watson Farms do not generate much traffic. Tenants and guests are the only people who drive in. There is some foot traffic. There are also two bus stops nearby.

The Board discussed the issue of signs. Ms. Crabtree stated that there are no signs proposed. There is an existing street sign that says Watson Farms, which the town provided. There will be signs for the addresses of the units. The new units will have one numbered Main Street address. Within that numbered street address the units will be numbered individually from #1 to #11. (For instance, Watson Farms has a street address of 693 Main Street and the units are numbered from # 1 to # 15.)

Members of the public spoke as follows:

Vince O'Connor of 179 Summer Street presented a letter that he had written to the Board. He also commented about the use of a non-sodium de-icing material in the winter, given the proximity to the wetlands. He commented on the need for a storage area for recycling inside the buildings, the need for a crosswalk across East Street for access to the Fort River School, the need for a play area on the site, the need for a low fence to separate back yards for each unit, and the need to make at least one entry door of each unit accessible to disabled people.

Nancy Gregg of Rolling Ridge Road, a member of the Housing Partnership/Fair Housing Committee, spoke in support of the proposal.

Mark Kosarick of 34 Shumway Street commented that the design of the project was good, that salt should not be used as a de-icing material, that the wetlands should be protected with a fence, that one unit should be eliminated in order to make room for a play area, and that the Housing Authority should explain how the property will be constructed and who will be responsible for building and managing it.

Mark Sternik of Dietz & Company Architects responded that the units had ample storage for recyclables, that the rear doors of the units could possibly be made accessible with appropriate grading, but that the front doors had stairs and porches in order to give tenants a little bit of semi-private space at the front of their homes in addition to making the units look more like other older homes in the neighborhood. In addition the doors to the units will be 36 inches wide, a width accessible for wheelchairs.

Bonnie Weeks, Building Commissioner, noted that state law requires only 5% of the units to be accessible since they are being designed as townhouses.

Ms. Crabtree stated that there are no longer any state or federal grants to housing authorities for building public housing. The Amherst Housing Authority will rely on a mixture of public and private financing to pay for construction. An Amherst-based non-profit organization will be responsible for building the project. This is explained in the Management Plan. The Amherst Housing Authority will oversee the activities of the non-profit organization. She also noted that the project may not be financially feasible with fewer units.

The Board discussed the amount of space available in the back yards and whether privacy screens were necessary to provide semi-private areas for each unit.

The Board discussed further the issue of what type of organization will build the project.

Mr. Simpson noted that there were some missing pieces of information, as follows:

- A copy of the lease
- A revised site plan
- More information from the Department of Public Works on salt-free de-icing materials
- More information about existing trees to remain and to be removed.

Ms. Crabtree noted that the property was under a Purchase and Sale Agreement and that this agreement expires on October 1, 2005.

Barbara Ford MOVED to continue the evidentiary portion of the public hearing to September 15, 2005, at 6:30 p.m. Zina Tillona SECONDED the motion. The Board VOTED unanimously to continue the evidentiary portion of the public hearing.

Continued Public Hearing: September 15, 2005

At the continued public hearing the Board noted that it had received a copy of the lease that the Housing Authority proposed to use. Mr. Simpson commented that there should be a limit on the number of cars that would be allowed per unit. Ms. Crabtree noted that it would not be a problem to limit the number of cars to two per unit.

Mr. Wells presented a revised site plan showing changes that had been requested by the Board. In addition he stated that a note had been added to the plans with regard to de-icing materials, to the effect that a product similar to Ice-be-Gone (a combination of magnesium chloride and an agricultural byproduct that is biodegradable and non-toxic) shall be used for de-icing on the site.

The revised plans showed the following:

- All existing trees are to be saved along the west property line.
- The sheds will be moved away from the property line by 9 feet, a distance equal to their height.
- Eight-foot high privacy fencing will be extended from the rear wall of each ground floor unit.
- Two shade trees will be added along Main Street (Sugar Maples of 3 to 3 ½ inch caliper).
- A fire hydrant will be added.
- The proposed blueberry shrubs have been moved to 30 feet away from the wetland edge (on the "no-disturb" line).
- An 8-foot wide landing area had been provided for the van-accessible parking space, near the universally-accessible unit.

In addition, Mr. Wells noted that the Conservation Commission, at its September 14, 2005, meeting, had approved moving the 4-unit building into the 50-foot buffer zone by 25 square feet, in order to move the building away from the side property line and away from the existing underground electrical lines.

The detailed changes requested in the letter from Town Engineer, Jason Skeels, dated September 7, 2005, will be addressed and complied with as part of the final construction documents.

The Board discussed whether the White Firs (*Abies concolor*) proposed to be planted around the dumpster would really screen the dumpster over time. Mr. Wells assured the Board that White Firs do not ordinarily lose their lower branches the way White Pines (*Pinus strobus*) lose theirs and so the screening should continue to be satisfactory in the future.

The Board discussed whether a recreational area should be provided on-site, possibly to serve the new development as well as the existing units at Watson Farms. Mr. Wells and Ms. Crabtree stated that this possibility had been considered during the design process, but liability issues as well as difficulty in finding an appropriate and safe location for a play area caused them to decide against proposing a play area at this time.

The Board discussed the use of the East Street School play areas for the residents of Watson Farms and the new development. They also discussed the possibility of using various portions of the Watson Farms site and parts of the new site for a play area. Ms. Crabtree noted that residents of developments like Watson Farms were often reluctant to have play areas or basketball nets located near their units because of the noise generated by the associated activities. The tenants enjoyed using their own semi-private backyard spaces. The Board concluded that Amherst Housing Authority could accommodate the need for a play area in the future if the tenants expressed a desire for such an area.

The Board also discussed the possible use of the Fort River School play areas and the fact that access to that school yard may or may not be improved by the addition of a crosswalk at the Fort River School driveway.

Mark Kosarick noted that Amherst Housing Authority does a good job of managing its properties and that he was concerned about another organization assuming responsibility for construction.

Peter Jessop, a member of the Board of the Amherst Housing Authority and President of Amherst Affordable Housing Associates Inc., stated that Amherst Affordable Housing Associates had been established in order to facilitate construction of this project. While Amherst Housing Authority will follow appropriate legal procedures in determining which organization will be chosen as the one to be responsible for managing construction, Mr. Jessop expressed confidence that Amherst Affordable Housing was well-qualified to be a very competitive applicant for this role. He noted that Amherst Affordable Housing Inc., if it were chosen for this role, would rely on staff at the Amherst Housing Authority during construction and would remain closely allied with AHA. He also noted that Amherst Affordable Housing Inc. would have Board members who were also Commissioners of the Amherst Housing Authority.

The Board asked what procedures were in place to assure that the construction phase would proceed smoothly. Ms. Crabtree stated that the Amherst Housing Authority would be the organization to go to during construction if there were a problem and that they would manage and maintain the property after construction.

The Board discussed their understanding of the process that would be followed to construct the project and then to manage and maintain it. The Board noted that there may be a requirement to put the management and maintenance contracts out to bid. Mr. Jessop and Ms. Crabtree expressed confidence that AHA would be a well-qualified contender in such a bidding process if bidding were required.

The Board discussed the Management Plan that had been presented with the application. The Board noted that if the Management Plan were to change, the Amherst Housing Authority (or other owner or manager in place at the time) would be required to come back to the Zoning Board of Appeals for approval of the change(s).

Tom Simpson MOVED to close the evidentiary portion of the public hearing. Barbara Ford SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting - Discussion

At the public meeting, the Board discussed the application. The individual members of the Board stated that they had no major problems with the proposed project and that the application could be approved with conditions.

This project is subject to Section 14 of the Zoning Bylaw, Phased Growth. At the public meeting the Zoning Board of Appeals assigned the project a total of 90 points on the Phased Growth Tally Sheet, thus allowing 100 percent of the units to be constructed during the first year. The Board assigned a development authorization date of October 2005 for the project.

Public Meeting - Findings:

Under Zoning Bylaw Section 10.38 the Board found that:

- 10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the site is located in an R-VC District, is surrounded by other multi-family homes, is located on a heavily-traveled road, is designed so that its siting and architecture blend in with the historic homes in the neighborhood and is on a bus route.
- 10.382 – The proposal would not constitute a nuisance because it will be managed according to the Management Plan approved by the Board, exterior lights will be downcast, there is provision for parking on the site and the dumpster will be covered and managed appropriately.
- 10.383 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because it will be located on an existing private drive with one entry onto Main Street, there is ample room on the site for vehicle circulation and for required parking, and each unit will be connected to the parking areas with a walkway.
- 10.384 – Adequate and appropriate facilities would be provided for the development because the site is connected to town water and sewer lines, there is a new hydrant proposed, the site is large enough to accommodate the number of units proposed and there is ample room for parking on the site. In addition, the utility infrastructure is already in place to accommodate the new development.

- 10.385 – The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site because the Management Plan and the Lease will ensure that the property is appropriately managed and the use of the property is restricted to residential uses and uses accessory to residential uses.
- 10.386 – The proposal ensures that it is in conformance with the parking and sign regulations of the town because there will be two parking spaces provided per dwelling unit as required by the Zoning Bylaw and there are no signs proposed other than a sign to provide information with regard to addresses of the units.
- 10.387 – The proposal provides convenient and safe vehicular and pedestrian movement within the site because it will use an existing private drive wide enough for two-way traffic; this driveway will be shared with the adjacent development (Watson Farms). There will be ample parking on the site, including one van-accessible space, and walkways will be provided to connect parking areas with the units. In addition, the porch lights at the front entries will light the sidewalks leading to the parking spaces.
- 10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse and recyclables because it will be connected with the town sanitary sewer system, there will be a centrally-located dumpster for trash disposal, and under the provisions of the Management Plan property managers will be required to contract with a local trucking company for periodic removal of refuse and recyclables.
- 10.392 – The proposal provides adequate landscaping because many existing trees will be retained and two new trees will be planted. In addition, there will be Highbush Blueberry (*Vaccinium corymbosum*) shrubs planted along wetland buffers to minimize intrusion into wetlands and the dumpster will be screened with White Fir (*Abies concolor*) and storage sheds will be screened with White Pine (*Pinus strobus*) trees.
- 10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because there will be no exterior lights added to the site except for the lights at entries and exits to units and these lights will be downcast.
- 10.394 – The proposal avoids impact on wetlands because it has received an Order of Conditions from the Conservation Commission for the site plan.
- 10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the architecture has been sensitively designed to be compatible with existing architecture in the neighborhood. In addition the Historic Commission has reviewed and recommended approval of the architectural design of the units.
- 10.396 – The proposal provides screening for dumpsters and utility buildings (sheds) because the site plans show that evergreen trees will be planted around the dumpster and sheds to provide screening.
- 10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use because there will be slightly more than 2,000 square feet of open space per unit, exclusive of paved areas and wetlands. In addition the site is located within walking distance of the East Street School and Fort River Elementary School, both of which have recreational facilities open to the public, and the project will provide outdoor storage in the form of sheds for recreational equipment.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst and will provide affordable housing for residents of the town.

Public Meeting - Zoning Board Decision

Tom Simpson MOVED to approve the application with conditions. Barbara Ford SECONDED the motion.

For all the reasons stated above the Board VOTED unanimously to GRANT a Special Permit, with conditions, to Amherst Housing Authority to construct 11 apartments/townhouses under Sections 3.322 and 3.323 of the Zoning Bylaw, at Main Street (Map 14B, Parcel 249, R-VC Zone).

ZINA TILLONA TOM SIMPSON BARBARA FORD
FILED THIS _____ day of _____, 2005 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2005.
NOTICE OF DECISION mailed this _____ day of _____, 2005
to the attached list of addresses by _____, for the Board.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2005,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, with conditions, to Amherst Housing Authority to construct 11 apartments/townhouses under Sections 3.322 and 3.323 of the Zoning Bylaw, at Main Street (Map 14B, Parcel 249, R-VC Zone), with the following conditions:

1. The project shall be constructed according to the plans reviewed and approved by the Board at the public meeting on September 15, 2005.
2. The project shall be managed according to the Management Plan (revised to delete the requested modifications to setback requirements) reviewed and approved by the Board at the public meeting on September 15, 2005. Any manager other than Amherst Housing Authority shall submit a revised Management Plan for review and approval by the Board at a public meeting.
3. There shall be no more than 2 cars per unit for a total of 22 cars parked on the site on a regular basis.
4. The use and storage of sodium chloride, pesticides and other chemicals shall be restricted as required under Section 3.254 of the Zoning Bylaw, in order to protect the existing wetlands on the site.
5. Landscaping shall be installed as shown on the plans approved by the Board at the public meeting on September 15, 2005, and shall be continuously maintained. Any existing trees to remain on the site shall be protected against damage during construction. Damaged or dying plants shall be replaced.
6. Exterior lighting shall be downcast. There shall be lighting at all entries and exits.
7. There shall be a sign at the Main Street entrance to the development that clearly identifies the address of the project as a whole and the addresses of the individual units. Such a sign may be a standard Department of Public Works street sign enlarged to accommodate the address information.
8. There shall be reflectorized unit numbers attached to each unit to clearly identify the number of each unit.

9. The development shall be built according to all Fire Department and Conservation Commission requirements and conditions.
10. This project is subject to Section 14 of the Zoning Bylaw, Phased Growth. At the public meeting on September 15, 2005, the Zoning Board of Appeals assigned the project a total of 90 points on the Phased Growth Tally Sheet, thus allowing 100 percent of the units to be constructed during the first year. The Board assigned a development authorization date of October 2005 for the project.

ZINA TILLONA, Chair
Amherst Zoning Board of Appeals

DATE